

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAVID ALLEN McQUEEN,

Defendant.

CR 10-01-GF-BMM

ORDER

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered his Findings and Recommendations on July 11, 2018. Defendant admitted that he had violated the conditions of his supervised release: 1) by failing to complete sex offender treatment; 2) by possessing a smartphone without notifying his probation officer; 3) by viewing pornographic materials; and 4) by possessing an Internet-capable device without permission. Judge Johnston found the admissions sufficient to establish the supervised release violations. Judge Johnston recommended that this Court revoke Defendant's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of imprisonment of 7 months, with 50 months of supervised release to follow. Judge Johnston further recommended that Defendant should spend the first 180 days of

his supervised release in a Pre-Release Center in Montana, if eligible.

No objections were filed by either party. Judge Johnston's findings and recommendations are therefore reviewed for clear error. *McDonnell Douglas Corp. Commodore Bus. Mach, Inc.*, 656 F.2d 1309, 1319 (9th Cir. 1981).

This Court agrees with Judge Johnston's findings and recommendations. Defendant admitted that he had violated his supervised release conditions. Defendant could be incarcerated for up to 24 months, followed by 57 months of supervised release less any custody time imposed. The United States Sentencing Guidelines call for a term of imprisonment of three to nine months. A sentence of 7 months in custody, followed by 50 months of supervised release is appropriate. The sentence is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 55) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 31st day of July, 2018.



Brian Morris
United States District Court Judge